

United States District Court
For the Northern District of California

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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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MAURICE DAVIS,

No. C 11-0230 WHA (PR)

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Petitioner,

**ORDER OF DISMISSAL;
GRANTING LEAVE TO PROCEED
IN FORMA PAUPERIS**

11

vs.

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JAMES A. YATES,

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Respondent.

(Docket No. 2)

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15 Petitioner, a state prisoner currently proceeding pro se, has filed a second or successive
16 petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. This petition challenges the
17 same state court conviction as his prior petition, which was dismissed as untimely. *See Davis v.*
18 *Cambra*, No. C 00-1430 MHP (PR) (N.D.Cal. Jan. 18, 2001). A second or successive petition
19 may not be filed in this court unless petitioner first obtains from the United States Court of
20 Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28
21 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth
22 Circuit. The petition is accordingly **DISMISSED** without prejudice to refiling if petitioner
23 obtains the necessary order. The application for leave to proceed in forma pauperis (docket
24 number 2) is **GRANTED**.

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The clerk shall enter judgment and close the file.

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IT IS SO ORDERED.

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Dated: February 14, 2011.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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